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|   |   |                       |
|---|---|-----------------------|
| In re Application of  | : |                       |
| BIEDERMANN et al.   | : | DECISION ON           |
| Serial No.: 09/242,540  | : | PETITION FOR REVIVAL  |
| PCT No.: PCT/EP97/03245   | : | UNDER 37 CFR 1.137(b) |
| Int. Filing Date: 20 June 1997  | : |                       |
| Priority Date: 20 June 1996   | : |                       |
| Attorney Docket No.: 64978  | : |                       |
| For: PYRIDYL ALKENE- AND PYRIDYL<br>ALKINE- ACID AMIDES AS<br>CYTOSTATICS AND<br>IMMUNOSUPPRESSIVES |   |                       |

This decision is in response to applicants' "PETITION Under 37 CFR 1.137(b) TO REVIVE AN INADVERTENTLY AND UNINTENTIONALLY ABANDONED APPLICATION" filed 18 February 1999 in the above-captioned application.

#### BACKGROUND

On 20 June 1997, applicants filed international application No. PCT/EP97/03245 which claimed a priority date of 20 June 1996, and which designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 24 December 1997.

On 26 November 1997, a Demand was filed with the International Preliminary Examining Authority electing the United States. The election was made prior to the expiration of 19 months from the priority date, and as a result the deadline for payment of the basic national fee was extended to expire 30 months from the priority date, or on 21 December 1998 (20 December 1998 was a Sunday).

On 18 February 1999, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee, a copy of the international application and the combined declaration and power of attorney of the inventors with the requisite surcharge for filing the declaration after the thirty month period and the instant petition to revive with the appropriate petition fee.

### DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional delay must be accompanied by (1) a proper reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply to the filing of a grantable petition pursuant to this paragraph was unintentional", and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

As to Item (1), the proper reply was payment of the basic national fee of \$ 840.00. With regard to Item (2), the appropriate petition fee of \$1,210.00 has been submitted.

Applicants' statement that applicants "unintentionally fail[ed] to pay the basic national fee to the United States Patent and Trademark Office within the 30 month period" has been interpreted as meaning that the "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3) at the time of filing this petition. If this is an incorrect interpretation in view of the rules, petitioner is required to promptly notify this office. The terminal disclaimer is not required in this application since the international filing date was after 08 June 1995.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, all of the requirements of 37 CFR 1.137(b) for revival have been submitted.

### CONCLUSION

All of the requirements of 37 CFR 1.137(b) have been met and applicants' petition to revive is GRANTED.

The application has an international filing date of 20 June 1997 under 35 U.S.C. 363 and a 35 U.S.C. 102(e) and 371(c) date of 18 February 1999.

This application is being forwarded to the United States Designated/Elected Office for processing.



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